

**AN ORDINANCE
BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

AN ORDINANCE TO AMEND SECTION 10-75 (5) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA ("THE ALCOHOLIC BEVERAGE CODE") SO AS TO CORRECT A CODE SECTION REFERENCE ERROR CONTAINED THEREIN; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, there exists a Code Section reference error in Section 10-75 (5) of the Code of Ordinances of the City of Atlanta (the "Alcoholic Beverage Code"); and

WHEREAS, said error needs to be corrected.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: Subsection (5) of Section 10-75 which currently provides as follows:

- (5) No temporary license shall be granted to any retail licensed establishment that is exempt from the distance requirements contained in sections 10-88, 10-88.1 and 1-113 of the Code.

Is hereby amended to provide as follows:

- (5) No temporary license shall be granted to any retail licensed establishment that is exempt from the distance requirements contained in sections 10-88 or 10-88.1 or to an applicant who has acquired a previously licensed liquor location (as set forth in section 10-113) which does not meet the distance requirements from churches, schools, private residences and other distance requirements set forth in this division.

So that said entire Code Section 10-75, as amended by the modification of Subsection (5), shall provide as follows:

Sec. 10-75. Applications after change in ownership; temporary license authorized; conditions of issuance.

- (1) Persons making alcoholic beverage license applications pursuant to Chapter 10 because of a change in ownership of the retail licensed establishment, after properly filing all required documents, may be authorized by the chief of police to operate pursuant to a temporary license. Before any such temporary license may be issued, the applicant must have filed with the licenses and permits unit of the police department the following documents and materials under the conditions indicated:
 - (a) All documents required by the police department and pursuant to the Code for obtaining a license appropriate to the type business for which application is made, including payment by certified check, money order or cashier's check of the license fee at the time of submission of the license application.
 - (b) A written request, on forms to be provided by the licenses and permits unit of the police department, by the applicant for a temporary license to the chief of police. Said forms shall be submitted by the applicant to the licenses and permits unit of the police department who will in turn forward it to the chief of police.
 - (c) The applicant, licensee and agent for the temporary license must be identical to the applicant, licensee and agent indicated on the related annual alcoholic beverage license application.
 - (d) A written, notarized statement, on forms to be provided by the licenses and permits unit of the police department, indicating that the applicant, temporary licensee and agent waive any and all rights available to them to appeal the decision by the chief of police to deny their application for a temporary license or to revoke a temporary license that has been issued to them, and that the applicant, temporary licensee and agent agree to all conditions set forth in this section. As used in this section, "rights to appeal" shall include, but not be limited to, injunctive relief, writ of certiorari, writ of mandamus, writ of prohibition, or any court action which relates in any way to said decision(s).
 - (e) When preliminary records checks have been completed, determined and judgments made, and the chief of police is satisfied that the location for the proposed license substantially complies with the provisions of the code authorizing such license in the city, a temporary license may be issued if deemed appropriate by the chief of police.
 - (f) The duration of any temporary license issued shall not exceed (120) days.
 - (g) A temporary license shall not be issued to any entity, real or artificial, who owes the city any monies at the time a temporary license is sought.

- (h) There shall be assessed and paid by cashier's check, money order or certified check a non-refundable temporary license fee of \$750.00. This fee shall be in addition to all other fees required by the Code.
- (i) The issuance and duration of any temporary license pursuant to the conditions stated in this section is within the sole discretion of the chief of police and such temporary license may be revoked by the chief of police at any time without notice, cause, hearing or refund of any portion of the temporary license fee.
- (j) The issuance of the temporary license pursuant to the above conditions does not eliminate or alter in any way the requirement that the applicant must otherwise follow the application process provided in section 10-48 of this Code.
- (2) There shall be no vested right to, or protectable property interest in, the issuance of a temporary license as provided for in this section, or to the issuance of any license issued pursuant to this chapter.
- (3) The grant, denial or revocation of a temporary license under the provisions of this section shall not affect or have any bearing upon the grant or denial of an annual license.
- (4) During any one calendar year, there shall be not more than one temporary license granted for any single retail licensed establishment, as such temporary licenses are provided for in this section.
- (5) No temporary license shall be granted to any retail licensed establishment that is exempt from the distance requirements contained in sections 10-88 or 10-88.1 or to an applicant who has acquired a previously licensed liquor location (as set forth in section 10-113) which does not meet the distance requirements from churches, schools, private residences and other distance requirements set forth in this division.**
- (6) The commander of the licenses and permits unit, or his designee, shall notify the commissioner of the DPDNC, or his designee, of the receipt of an application of a temporary license within three days. Within three days after the commissioner of the DPDNC, or his designee, receives such information, he shall notify the appropriate city councilmembers (district and at-large) and the chairperson and vice chairperson of the NPU. Such notification shall also include the name of the applicant and the address of the proposed retailed license establishment to receive the temporary license provided for in the section.

Section 2: All ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.